



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 14, 1997

Ms. Marva M. Gay
Assistant County Attorney
Harris County
1001 Preston, Suite 634
Houston, Texas 77002-1891

OR97-2492

Dear Ms. Gay:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 110581.

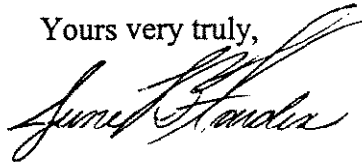
The Harris County Rabies/Animal Control Office (the "county") received a request for information concerning the impoundment of a particular dog. You claim that the highlighted information reveals the complainant's identity, and therefore, is protected by the informer's privilege under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." The Texas courts have recognized the informer's privilege. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). It protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, provided that the subject of the information does not already know the informer's identity. Open Records Decision Nos. 515 (1988) at 3, 208 (1978) at 1-2. The informer's privilege protects the identities of individuals who report violations of statutes to the police or similar law-enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to "administrative officials having a duty of inspection or of law enforcement within their particular spheres." Open Records Decision No. 279 (1981) at 2 (citing Wigmore, Evidence, § 2374, at 767 (McNaughton rev. ed. 1961)). The report must be of a violation of a criminal or civil statute. *See* Open Records Decision Nos. 582 (1990) at 2, 515 (1988) at 4-5. The privilege excepts the informer's statement only to the extent necessary to protect that informer's identity. Open Records Decision No. 549 (1990) at 5.

You represent to us that the complainant reported a violation of the county's Rabies/Animal Control rules which is a class C misdemeanor. You further state that the "Harris County Rabies/Animal Control Office is responsible for enforcing the Rabies Control Act of 1981, the rules of the Texas Board of Health that comprise the minimum standards of rabies control, the Harris County rules to control rabies, and the rules adopted by the Texas Board of Health under the quarantine provisions of the Rabies Control Act of 1981." We conclude that you may withhold information that reveals the complainant's identity under section 552.101 in conjunction with the informer's privilege. *See* Open Records Decision No. 156 (1977) (name of person who makes complaint about another individual to city's animal control division is excepted from disclosure by informer's privilege so long as information furnished discloses potential violation of state law). However, we find that the following information, which you have highlighted, does not reveal the complainant's identity and must be disclosed: 1) the time of the complainant's call, 2) the new time, 3) the dispatch time, and 4) the comments.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/glg

Ref.: ID# 110581

Enclosures: Submitted documents

cc: Mr. Harry Weber
10206 Pearl Drive
Houston, Texas 77064
(w/o enclosures)